

B<sup>3</sup> cont.

27. N<sup>ω</sup>-Carboxyalkylcarbamoyl- $\alpha,\omega$ -diamino acid as claimed in claim 7, wherein said functional group is selected from the group consisting of carboxyl, hydroxyl, alkoxy and mercapto group. --

### REMARKS

The applicants respectfully request reconsideration in view of the amendments and following remarks. Support for amended claim 7 can be found in claim 7 and in the specification at page 1, line 33 through page 2, line 12 and from Examples 1 and 2. Support for amended claim 11 can be found in the specification at page 9, line 27 for the corrected formula. In addition, the applicants have incorporated the features of allowed claim 13 into claim 11. Support for newly added claims 18 and 19 can be found in the specification at page 8, lines 23 and 24. Support for claims 20 and 21 can be found in the examples 1 and 2. Support for newly added claims 22 through 27 can be found in claims 12 through 17. Claims 7-11, 14, 15 and 17-27 are now in this application.

Claim 11 was objected to. Claim 16 was objected to under 37 CFR 1.75(c) as being in improper dependent form for failing to limit the previous subject matter of a claim. Claim 7 was rejected under 35 U.S.C. § 102(b) as being anticipated by Wilchek *et al.* (*Biochem.*, 1987) (hereinafter referred to as "Wilchek"), Fung *et al.* U.S. Patent No. 5,032,577 (hereinafter referred to as "Fung"), Ayrat-Kaloustian *et al.* U.S. Patent No. 5,312,831 (hereinafter referred to as "Ayrat-Kaloustian"), Kessler *et al.* (*Pept. Chem.*, 1988) (hereinafter referred to as "Kessler"), and Tuomanen *et al.* (*Antimicrob. Agents, Chemother.*, 1984) (hereinafter referred to as "Tuomanen"). Claims 11 and 12 were

rejected under 35 U.S.C. § 102(b) as being anticipated by Schwertner U.S. Patent No. 4,045,556 (hereinafter referred to as "Schwertner"). Claim 12 was rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 2 of U.S. Patent No. 6,310,178 (hereinafter referred to as "the '178 patent") in view of Schwertner. The applicants respectfully traverse these rejections.

The Examiner indicated that claims 13 through 15 and 17 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten in the independent form. The applicants believe that the other claims are also allowable for the reasons stated below.

**Claim Objections**

Claim 11 was objected to because the formula  $\text{NH}_2$  was typed incorrectly. The applicants appreciate the Examiner pointing out this obvious typographical error. The applicants have amended claim 11 and corrected this formula. For the above reasons, this objection should be withdrawn.

Claim 16 was rejected under 37 CFR 1.75(c). In order to expedite prosecution, the applicants have cancelled this claim.

**Rejection of Claim 7**

Claim 7 was rejected under 35 U.S.C. § 102(b) as being anticipated by Wilchek, Fung, Ayrat-Kaloustian, Kessler or Tuomanen. The applicants have amended claim 7. The applied references are directed to compounds wherein the N<sup>a</sup> atom of the amended formula is connected to an unsubstituted, an alkyl-substituted or an aryl carbon atom. There is no suggestion that can be derived from the references that the N<sup>a</sup> atom should be connected to the  $\alpha$ -carbon of the  $\alpha$ -amino acid as required by claim 7 (*i.e.* the carboxyl group of the  $\alpha$ -amino acid is connected to the same carbon atom as the N<sup>a</sup> atom). For the above reasons, this rejection should be withdrawn.

**Rejection of claims 11 and 12**

Claims 11 and 12 were rejected under 35 U.S.C. § 102(b) as being anticipated by Schwertner. Claim 13 has been incorporated into claim 11. Therefore, the rejection should be withdrawn.

**Double Patenting Rejection**

Claim 12 was rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 2 of the '178 patent in view of Schwertner. In order to expedite prosecution, the applicants have cancelled claim 12. For the above reasons, this rejection should be withdrawn.

A one-month extension fee has been paid. No additional fees are due. If there are any additional fees due in connection with the filing of this response, including any fees required for an additional extension of time under 37 CFR 1.136, such an extension is requested and the Commissioner is authorized to charge or credit any overpayment to

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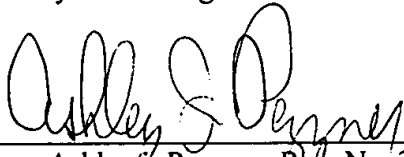
**ATTORNEY DOCKET NO. S 93/16**

Deposit Account No. 03-2775.

For the reasons set forth above, Applicants believe that the claims are patentable over the references cited and applied by the Examiner and a prompt and favorable action is solicited. The applicants believe that these claims are in condition for allowance, however, if the Examiner disagrees, the applicants respectfully request that the Examiner telephone the undersigned at (302) 888-6270.

Respectfully submitted,

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